



Memo

To: Members of the General Assembly
From: Beverly A. Zylstra, Deputy Director
Date: January 10, 2012
Re: Report on the Medicaid Divestiture Program

In accordance with section 14, subsection 3, of the 2011 Administration-Regulation Appropriations Bill (HF 646), the Department of Inspections and Appeals is pleased to submit a report of the fiscal impact of additional full-time equivalent positions on the department's efforts relative to the Medicaid divestiture program under Iowa Code chapter 249F.

Attached is the required report.

Please contact me at 515-281-6442 or Beverly.zylstra@dia.iowa.gov with any questions.

IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
REPORT TO THE GENERAL ASSEMBLY
REGARDING THE EXPANSION OF THE DIVESTITURE UNIT
FISCAL YEAR 2012

Background

The Iowa Efficiency Review Report of December 8, 2009, recommended expansion of the staffing of the Investigations Division of the Department of Inspections and Appeals for the Transfer of Assets Program, commonly referred to as the Divestiture Program, in order to increase recoveries of improperly-claimed Medicaid benefits. The General Assembly, during the 2010 session, through Senate File 2367, Administration and Regulation Appropriations Bill, appropriated the state matching funds of \$350,000 and 6.00 FTE to the Investigations Division of the Department of Inspections and Appeals for this expansion and required the Department to provide a report on the fiscal impact of the additional full-time positions. This year, the General Assembly, during the 2011 session, requested another report on the fiscal impact of the prior years' funding and FTE increases (see section 14, subsection 3, of the 2011 Administration-Regulation Appropriations Bill (HF 646)).

Under Iowa Code chapter 249F, Transfer of Assets, is defined as:

“Transfer of assets” means any transfer or assignment of a legal or equitable interest in property, as defined in section 702.14, from a transferor to a transferee for less than fair consideration, made while the transferor is receiving medical assistance or within five years prior to application for medical assistance by the transferor. Any such transfer or assignment is presumed to be made with the intent, on the part of the transferee; transferor; or another person acting on behalf of a transferor who is an actual or implied agent, guardian, attorney-in-fact, or person acting as a fiduciary, of enabling the transferor to obtain or maintain eligibility for medical assistance or of impacting the recovery or payment of a medical assistance debt. This presumption is rebuttable only by clear and convincing evidence that the transferor’s eligibility or potential eligibility for medical assistance or the impact on the recovery or payment of a medical assistance debt was no part of the reason of the transferee; transferor; or other person acting on behalf of a transferor who is an actual or implied agent, guardian, attorney-in-fact, or person acting as a fiduciary for making or accepting the transfer or assignment. A transfer of assets includes a transfer of an interest in the transferor’s home, domicile, or land appertaining to such home or domicile while the transferor is receiving medical assistance, unless otherwise exempt under paragraph.

The Department of Inspections and Appeals is responsible for investigating any allegations of fraud regarding transfer of assets.

Implementation and Impact

Prior to the addition of the new positions in Fiscal Year 2011, the Divestiture Unit consisted of one Assistant Attorney General and five Investigators. The positions added to the Divestiture Unit included:

- Investigators (3)
- Executive Officer
- Compliance Officer
- Administrative Assistant

At the beginning of FY 2012, the Unit lost 2 full-time investigators, bringing the total number of investigators to 6 for FY 2012. As a result, the total amount of cost savings may be negatively impacted.

The Executive Officer (EO) develops training programs and presentations on Iowa Code section 249F. The EO trains and assists Investigators in the techniques and skills essential to conduct fraud investigations within the parameters of the Department and Iowa Code Chapters 10A and 249F. He also teaches Investigators how to negotiate payment agreements. His training efforts have resulted in a large increase in the total judgments obtained by consent of the parties.

The Compliance Officer (CO) is a licensed attorney who handles legal issues that arise during an investigation or settlement and presents the Unit's recovery cases at informal conferences. The informal conferences resulted in judgments totaling \$78,099.00 in FY 2011, and \$87,417.00 in judgments in the first 6 months of FY 2012.

With the addition of the Compliance Officer to handle informal conferences and legal issues, the Assistant Attorney General (AAG) assigned to the Divestiture Unit has been able to file more District Court cases. The AAG obtained 18 District Court default judgments totaling \$482,547.00 in the first 6 months of FY 2012 compared to 3 District Court cases in FY 2011 that resulted in court ordered judgments totaling \$45,108.00.

In FY 2011, the Divestiture Unit Investigators submitted five cases to County Attorneys that resulted in criminal felony convictions of theft against the Power of Attorney of the elderly and/or disabled recipient of Medicaid. Several additional cases have been submitted to the County Attorneys in FY 2012 (none of the cases have been finalized as of the date of this report). The coordinated efforts of the Department and the County Attorneys' prevent and deter financial exploitation resulting in greater protection to the health and safety of vulnerable Iowans.

Investigators are also working closely with the Adult Medical Unit of the Department of Human Services and the Estate Recovery Program to understand and augment each other's efficiencies in the identification and recovery of assets that have been improperly transferred or converted to gain or retain Medical Assistance. As a result of the coordinated efforts of the Department of Inspections

and Appeals, the Department of Human Services, the Estate Recovery Program and the expansion of the Divestiture Unit, the Department's figures reflect, as shown below, a total cost savings of \$2.8 million in FY 2011 (compared to FY 2010) to the Medicaid program. The cost savings includes judgments/repayments agreements and cost avoidance.*

July 2009 - June 2010 (FY 2010)

# of Active Cases	# Cases Closed with Repayment Ordered	Total Amount Subject to Repayment	# Cases Closed with Cost Avoidance	Total Amount of Cost Avoidance	Total Repayments & Cost Avoidance	# Cases Closed with no Recovery	Criminal Conviction	Total Cases Closed
445	85	\$1,195,835.33	13	\$267,940.94	\$1,463,776.27	94	0	192

July 2010 - June 2011 (FY 2011)

# of Active Cases	# Cases Closed with Repayment Ordered	Total Amount Subject to Repayment	# Cases Closed with Cost Avoidance	Total Amount of Cost Avoidance	Total Repayments & Cost Avoidance	# Cases Closed with no Recovery	Criminal Conviction	Total Cases Closed
589	129	\$2,371,911.12	25	\$1,904,925.98	\$4,276,837.10	140	5	294

July 2011 – December 2011 (FY 2012) **

# of Active Cases	# Cases Closed with Repayment Ordered	Total Amount Subject to Repayment	# Cases Closed with Cost Avoidance	Total Amount of Cost Avoidance	Total Repayments & Cost Avoidance	# Cases Closed with no Recovery	Criminal Conviction	Total Cases Closed
523	70	\$1,103,503.88	13	\$435,161.65	\$1,538,665.53	58	0	141

While it may appear that the repayment and cost avoidance amounts for FY12 will come in less than in FY11, the repayment amount for the first six months of FY12 are more than double the amount for the first six months of FY11 and the cost avoidance amount is comparable.

* Cost Avoidance is calculated by taking of the value of [transferred] asset and attributing the value back to the recipient to determine how many months the recipient would not have been eligible for Medicaid multiplied by the monthly Medicaid benefit amount.

** As of 12-30-2011